

(ii) in paragraph (2)—  
 (I) in subparagraph (A)—  
 (aa) insert “in a proceeding” after “a participant”; and  
 (bb) strike “a proceeding is issued” and insert “the proceeding is issued”;  
 (II) in subparagraph (B), strike “their initial determination concerning rates and terms to the participants in the proceeding” and insert “to the participants in the proceeding their initial determination concerning rates and terms”; and  
 (III) in subparagraph (C), strike “except as provided under subsection (d)(1)” and insert “except that nonparticipation may give rise to the limitations with respect to judicial review provided for in subsection (d)(1)”; and  
 (iii) in paragraph (6), strike “Following review of the determination by the Register of Copyrights under section 802(f)(1)(D)” and insert “By no later than the end of the 60-day period provided in section 802(f)(1)(D)”; and  
 (D) in the second sentence of subsection (d)(2)(A), strike “transmission service” and insert “licensee”.

(4) In section 5(b)(1)—  
 (A) in subparagraph (A), strike “and” at the end;  
 (B) strike subparagraph (B); and  
 (C) redesignate subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(5) In the amendment made by section 5(b)(1)(A)—  
 (A) strike “5-year periods” and insert “5-year period”; and  
 (B) strike “such other periods” and insert “such other period”.

(6) Strike paragraph (3) of section 5(b) and insert the following:  
 “(3) in paragraph (5), by striking ‘determination by a copyright arbitration royalty panel or decision by the Librarian of Congress’ and inserting ‘decision by the Librarian of Congress or determination by the Copyright Royalty Judges’”;

(7) In the amendment made by section 5(c)(1)(A)(i)—  
 (A) strike “5-year periods” and insert “the 5-year period”; and  
 (B) strike “different transitional periods are provided in section 804(b), or such periods” and insert “a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period”.

(8) In the amendment made by section 5(c)(1)(B)(i), strike “in section 804(b)” and insert “under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004”.

(9) In the amendment made by section 5(c)(2)(A)—  
 (A) strike “5-year periods” and insert “the 5-year period”; and  
 (B) strike “different transitional periods are provided in section 804(b), or such periods” and insert “a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period”.

(10) In the amendment made by section 5(c)(2)(B)(i), strike “in section 804(b)” and insert “under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004”.

(11) Strike paragraph (3) of section 5(c) and insert the following:  
 “(3) in paragraph (3), by striking ‘determination by a copyright arbitration royalty panel or decision by the Librarian of Congress’ and inserting ‘decision by the Librarian of Congress or determination by the Copyright Royalty Judges’”; and  
 (12) In section 5(c)(4)(B), insert “of subparagraph (A) the following:” after “by adding after the first sentence”.

(13) In the amendment made by section 5(d)(3)(A), strike “during periods” and insert “during the period”.

(14) In section 5(d)(4)—  
 (A) strike “and” at the end of subparagraph (B);  
 (B) add “and” after the semicolon at the end of subparagraph (C); and  
 (C) add after subparagraph (C) the following:  
 “(D) in the last sentence, by striking ‘Librarian of Congress’ and inserting ‘Copyright Royalty Judges’”.

(15) In the amendment made by section 5(d)(5)(A)(i), strike “, Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress” and insert “or Copyright Royalty Judges”.

(16) In the amendment made by section 5(f)(1)(B)—  
 (A) strike “, a copyright arbitration royalty panel,”; and  
 (B) strike “to the extent that they were accepted by the Librarian of Congress,”.

(17) In section 5, insert the following after subsection (g) and redesignate succeeding subsections accordingly:  
 “(h) RATEMAKING FOR SATELLITE CARRIERS.—Section 119(c) of title 17, United States Code, is amended—  
 “(1) in paragraph (2)—  
 “(A) in subparagraph (B), by striking ‘Librarian of Congress’ and inserting ‘Copyright Royalty Judges’; and  
 “(B) in subparagraph (C), by striking ‘Register of Copyrights shall prescribe’ and inserting ‘Copyright Royalty Judges shall prescribe as provided in section 803(b)(6)’; and  
 “(2) in paragraph (3)—  
 “(A) in subparagraph (A)—  
 “(i) by striking ‘arbitration proceedings’ and inserting ‘proceedings’; and  
 “(ii) by striking ‘arbitration proceeding’ and inserting ‘proceedings’;  
 “(B) in subparagraph (B)—  
 “(i) by striking ‘copyright arbitration royalty panel appointed under chapter 8’ and inserting ‘Copyright Royalty Judges’; and  
 “(ii) by striking ‘panel shall base its decision’ and inserting ‘Copyright Royalty Judges shall base their determination’; and  
 “(C) in subparagraph (C)—  
 “(i) in the heading, by striking ‘DECISION OF ARBITRATION PANEL OR ORDER OF LIBRARIAN’ and inserting ‘DETERMINATION UNDER CHAPTER 8’; and  
 “(ii) by striking clauses (i) and (ii) and inserting the following:  
 “(i) is made by the Copyright Royalty Judges pursuant to this paragraph and becomes final, or  
 “(ii) is made by the court on appeal under section 803(d)(3).”

(18) In the first sentence of section 6(b)(1)—  
 (A) strike “date of enactment of this Act” and insert “effective date provided in subsection (a)”; and  
 (B) strike “such date of enactment” and insert “such effective date”.

(19) Strike paragraph (2) of section 6(b) and insert the following:  
 “(2) CERTAIN ROYALTY RATE PROCEEDINGS.—Notwithstanding paragraph (1), the amendments made by this Act shall not affect proceedings to determine royalty rates pursuant to section 119(c) of title 17, United States Code, that are commenced before January 31, 2006.”

Wednesday, November 17, 2004, at 3 p.m., in room 216 of the Hart Senate Office Building to conduct a business meeting on pending committee matters, to be followed immediately by an oversight hearing on the In Re Tribal Lobbying Matters, et al.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

#### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, November 18, 2004, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct a business meeting on pending committee matters, to be followed immediately by an oversight hearing on the water problems on the Standing Rock Sioux Reservation.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Tuesday, November 16, 2004, at 9:30 a.m., on Global Climate Change: Arctic Climate Global Assessment.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, November 16, 2004, at 9 a.m., on “Judicial Nominations” in the Dirksen Senate Office Building Room 226.

#### Witness list

Panel I: Senators.

Panel II: Thomas B. Griffith, to be U.S. Circuit Judge for the District of Columbia.

Panel III: Paul A. Crotty, to be a U.S. District Judge for the Southern District of New York; and J. Michael Seabright, to be a U.S. District Judge for the District of Hawaii.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. WARNER. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Tuesday, November 16, 2004, from 2:30 p.m.-4:30 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INTERNATIONAL SECURITY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs’ Subcommittee on Financial Management,

#### NOTICES OF HEARINGS/MEETINGS

##### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on

the Budget, and International Security be authorized to meet on Tuesday, November 16, 2004, at 10:30 a.m., for a hearing entitled, "Oversight Hearing on Insurance Brokerage Practices, Including Potential Conflicts of Interest and the Adequacy of the Current Regulatory Framework."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGE OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent a fellow in my office, Seth Gerson, be granted the privilege of the floor for the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CHILDREN'S HOSPITALS EDUCATIONAL EQUITY AND RESEARCH ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 774, S. 2526.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2526) to reauthorize the Children's Hospitals Graduate Medical Education Program.

There being no objection, the Senate proceeded to consider the bill which was reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

(Strike the part printed in black brackets and insert the part printed in italic.)

S. 2526

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

[This Act may be cited as the "Children's Hospitals Educational Equity and Research Act" or the "CHEER Act".]

#### SEC. 2. REAUTHORIZATION OF CHILDREN'S HOSPITALS GRADUATE MEDICAL EDUCATION PROGRAM.

[(a) EXTENSION OF PROGRAM.—Section 340E(a) of the Public Health Service Act (42 U.S.C. 256e(a)) is amended by striking "2005" and inserting "2010".]

[(b) DESCRIPTION OF AMOUNT OF PAYMENTS.—Section 340E(b) of the Public Health Service Act (42 U.S.C. 256e(b)) is amended—

[(1) in paragraph (1)(B), by striking "relating to teaching residents in such" and inserting "associated with graduate medical residency training"; and

[(2) in paragraph (2)(A), by inserting before the period at the end " , except as provided under paragraphs (1)(A) and (2)(B) of subsection (f)".]

[(c) DIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(c) of the Public Health Service Act (42 U.S.C. 245e(c)) is amended—

[(1) in paragraph (1)—

[(A) in the matter preceding subparagraph (A), by striking "product" and inserting "sum";

[(B) in subparagraph (A), by striking "(A) the updated per resident" and inserting the following:

["(A) the product of—

["(i) the updated per resident".]

[(C) by redesignating subparagraph (B) as clause (ii) and indenting appropriately;

[(D) in subparagraph (A)(ii) (as so redesignated)—

[(i) by inserting "but without giving effect to section 1886(h)(7) of such Act" after "section 1886(h)(4) of the Social Security Act"; and

[(ii) by striking the period and inserting " ; and"; and

[(E) by inserting after subparagraph (A) the following:

["(B) amounts for other approved education programs that are provider-operated, as defined for purposes of Medicare payment, limited to not more than 30 percent of costs that would be allowed for such programs under Medicare rules for hospitals reimbursed under section 1886(d) of the Social Security Act."; and

[(2) in paragraph (2)(B), by inserting before the period at the end " , without giving effect to section 1886(d)(3)(E)(ii) of the Social Security Act".]

[(d) INDIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(d) of the Public Health Service Act (42 U.S.C. 256e(d)) is amended—

[(1) in paragraph (1), by striking "related to" and inserting "associated with"; and

[(2) in paragraph (2)(A)—

[(A) by inserting "ratio of the" after "hospitals and the"; and

[(B) by inserting at the end before the semicolon "to beds (but excluding beds or bassinets assigned to healthy newborn infants)".]

[(e) NATURE OF PAYMENTS.—Section 340E(e) of the Public Health Service Act (42 U.S.C. 256e(e)) is amended—

[(1) in paragraph (2), by striking the first sentence;

[(2) in paragraph (3)—

[(A) by striking "made to pay" and inserting "made and pay"; and

[(B) by striking "to the extent possible" and all that follows through the end of the paragraph and inserting the following: ". To the greatest extent possible, amounts recouped from a hospital are to be distributed to other hospitals in the same fiscal year. Amounts recouped from a hospital and not disbursed to other hospitals in the same fiscal year shall remain available for distribution during the subsequent fiscal year. Unless there is fraud, amounts paid to a hospital without a demand for recoupment by the end of the fiscal year shall be final and not subject to recoupment."; and

[(3) by adding at the end the following:

["(4) APPEALS.—

["(A) IN GENERAL.—A decision affecting the amount payable to a hospital pursuant to this section shall—

["(i) be subject to review under section 1878 of the Social Security Act in the same manner as a final determination of a fiscal intermediary of the amount of payment under 1886(d) of such Act is subject to review; and

["(ii) be handled expeditiously so that the review decision is reflected in the final reconciliation for the year in which the appeal is made.

["(B) LIMITATION.—A review decision pursuant to this section shall not affect payments for a fiscal year prior to the fiscal year in which the review decision is rendered.

["(C) APPLICATION TO SUBSEQUENT FISCAL YEARS.—The Secretary shall apply a review decision in determining the amount of payment for the appealing hospital in the fiscal year in which the decision is rendered and in subsequent years, unless the law at issue in the review decision is amended or there are material differences between the facts for the fiscal year for which the review decision is rendered and the year for which payment

is made. Nothing in this section shall be construed to prohibit a hospital from appealing similar determinations in subsequent periods.".]

[(f) AUTHORIZATION OF APPROPRIATIONS.—Section 340E(f) of the Public Health Service Act (42 U.S.C. 256e(f)) is amended—

[(1) in paragraph (1)—

[(A) in subparagraph (A)—

[(i) in clause (ii), by striking "and";

[(ii) in clause (iii), by striking the period at the end and inserting a semicolon; and

[(iii) by adding at the end the following:

["(iv) for fiscal year 2006, \$110,000,000; and

["(v) for each of fiscal years 2007 through 2010, such sums as may be necessary, including an annual adjustment to reflect increases in the Consumer Price Index."; and

[(B) in subparagraph (B), by striking "for fiscal year 2000" and all that follows and inserting "for fiscal year 2006 and each subsequent fiscal year shall remain available for obligation for the year appropriated and the subsequent fiscal year."; and

[(2) in paragraph (2)—

[(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting appropriately;

[(B) by striking "There are hereby authorized" and inserting the following:

["(A) IN GENERAL.—There are authorized";

[(C) in clause (ii) (as redesignated by this paragraph), by striking "and";

[(D) in clause (iii) (as redesignated by this paragraph), by striking the period at the end and inserting a semicolon;

[(E) by adding at the end of subparagraph (A) (as designated by this paragraph), the following:

["(iv) for fiscal year 2006, \$220,000,000; and

["(v) for each of fiscal years 2007 through 2010, such sums as may be necessary, including an annual adjustment to reflect increases in the Consumer Price Index."; and

[(F) at the end of paragraph (2), by adding the following:

["(B) CARRYOVER OF EXCESS.—To the extent that amounts are not expended in the year for which they are appropriated, the amounts appropriated under subparagraph (A) for fiscal year 2006 and each subsequent fiscal year shall remain available for obligation through the end of the following fiscal year.".]

[(g) DEFINITIONS.—Section 340E(g)(3) of the Public Health Service Act (42 U.S.C. 256e(g)(3)) is amended by striking "has" and all that follows through the end of the sentence and inserting the following: "includes—

["(A) the meaning given such term in section 1886(h)(5)(C) of the Social Security Act; and

["(B) costs of approved educational activities, as such term is used in section 1886(a)(4) of the Social Security Act.".]

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Children's Hospitals Educational Equity and Research Act" or the "CHEER Act".*

#### SEC. 2. REAUTHORIZATION OF CHILDREN'S HOSPITALS GRADUATE MEDICAL EDUCATION PROGRAM.

(a) EXTENSION OF PROGRAM.—Section 340E(a) of the Public Health Service Act (42 U.S.C. 256e(a)) is amended by striking "2005" and inserting "2010".

(b) DIRECT GRADUATE MEDICAL EDUCATION.—Section 340E(c) of the Public Health Service Act (42 U.S.C. 256e(c)) is amended—

(1) in paragraph (1)(B), by inserting "but without giving effect to section 1886(h)(7) of such Act" after "section 1886(h)(4) of the Social Security Act"; and

(2) in paragraph (2)(E)(ii), by striking "described in subparagraph (C)(ii)" and inserting